

# Notice of Allowability

Application No.

10/007,491

Examiner

Gregory R. Del Cotto

Applicant(s)

HERDT ET AL

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1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amend. filed 6/18/04.
2. ☒ The allowed claim(s) is/are 1-39.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

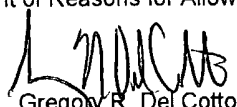
\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Gregory R. Del Cotto  
Primary Examiner  
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### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mark Skoog on August 5, 2004.

The application has been amended as follows:

#### **The Claims:**

**Cancel** claims 55-57.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

Note that, Applicant's arguments, Applicant's amendments, and the Examiner's Amendment are sufficient to place the instant claims in condition for allowance.

Of the references of record, the most pertinent is Herdt et al (US 6,121,219). Herdt et al teach compositions and methods for cleaning typically organic beverage and food soils. The cleaning composition is formulated to remove carbohydrate and proteinaceous soils from beverage manufacturing locations such as soils arising in the manufacture of malt beverages, fruit juices, dairy products, etc. See Abstract. The compositions may contain water conditioning agents which may be inorganic or organic in nature and include carbonates, bicarbonates, phosphates, phosphonates, etc. See column 5, lines 1-40. Note that, none of the examples of Herdt et al teach a phosphate

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to polyphosphate ratio falling within the ratio as recited by the instant claims. In fact, all examples of Herdt et al teach a ratio of phosphate to phosphonate which is far outside the ratio as recited by the instant claims as noted by Applicant's response. Additionally, the Examiner asserts that nothing in Herdt et al would point, direct, or motivate one of ordinary skill in the art to formulate a cleaning composition containing phosphates and phosphonates in the specific ratio as recited by the instant claims. Furthermore, Applicant has provided data in the specification which shows the unexpected and superior properties of the claimed invention in comparison to those compositions falling outside the scope of the instant claims. Specifically, Applicant has provided data on pages 41, 42, and 47 of the specification which show that compositions having the claimed ratio of phosphate to phosphonate provided unexpected and superior applied color design corrosion properties in comparison to those compositions having a ratio of phosphate to phosphonate which falls outside the scope of the instant claims.

Accordingly, since Applicant has provided data showing the unexpected and superior properties of the claimed invention in comparison to those compositions falling outside the scope of the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571)

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272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory R. Del Cotto  
Primary Examiner  
Art Unit 1751

GRD  
August 5, 2004